

State Tribal Relation Interim Committee
Helena, Montana

Governor's Office of Indian Affairs Report

2013 Activities

as of 6/26/13

This report provides information on the activities of the Governor's Office of Indian Affairs as required in MCA, 90-11-102.

State-Tribal Relations Committee
June 26, 2013

Exhibit 3

Director of Indian Affairs

The Office of Indian Affairs was established in 1951 by the Montana legislature to facilitate effective tribal-state communications with special attention to the discussion and resolution of issues that Indian peoples face regarding their unique political status and as full citizens of the state of Montana. The Office of Indian Affairs serves as a liaison between the state and the tribes and promotes economic development, environmental protection, education, support for social services, and enduring good will.

Director's Responsibilities (MCA, 90-11-102)

The director is tasked with:

- Meet with Tribes quarterly to be acquainted with issues confronting the Indians of Montana;
- Meet with executive branch directors on issues arising between Montana's Indian citizens, tribes and state agency personnel and programs;
- Report to the Governor's cabinet meeting concerning issues confronting Indian people and tribal governments;
- Advise the legislative and executive branches of the state of Montana of those problems and issues
- Make recommendations for the alleviation of those problems and issues;
- Serve the Montana delegation in the federal congress as an adviser and intermediary in the field of Indian affairs;
- Report in detail at every meeting of the interim committee of the legislature responsible for acting as a liaison between the legislature and the tribal governments those actions taken by the state-tribal economic development commission established by 90-1-131 to carry out its duties;
- Hire, with the concurrence of other members of the state-tribal economic development commission, a tribal business center coordinator and a federal grants coordinator, and subsequently provide administrative support for both positions.
- All executive and legislative agencies of state government may within the area of their expertise and authority provide assistance to tribal councils or their official designees requesting assistance on any matter relating to education, health, natural resources, and economic development on Indian reservation lands.

Montana State Boards

The State Director of Indian Affairs is required by state law to serve on the following boards:

- State Tribal Economic Development Commission
- Board of Veterans' Affairs
- Interagency Coordinating Council for State Prevention Programs

State Tribal Economic Development Commission

We are currently working with the Department of Commerce on establishing the administrative rules and program guidelines for the Montana Indian Language Preservation Pilot Program with tribes, tribal colleges, and other public participants.

We have been the process of preparing to participate in the upcoming Main Street Business Roundtable on the Fort Belknap Reservation at the Aaniiih Nakoda College July 25, 2013.

Boards and Appointments

In the past six months, Governor Bullock has appointed Native Americans to the state board and commissions at a high rate. Governor Bullock and our office is proud to share that these appointments have been made entirely on the qualifications those Montanans bring to their position, not just because they were Native American.

Some of the recent appointees include:

- Larry Wetsit, former Chairman of the Fort Peck Tribes, FWP Commission
- Andrew Werk, Fort Belknap Tribal Councilman, Hard-Rock Mining Impact Board
- Major Robinson reappointed to the Board of Regents
- Ingrid Firemoon, Fort Peck Tribes, Board of Housing – Ingrid serves on National housing boards and brings the unique perspective of her tribal housing experience as well as the Bakken Oil boom impact on regional housing
- Caryn Kallay, CSKT, Occupational Therapy Board
- Shawn Real Bird, Crow, Board of Horseracing
- Wayne Smith, Board of Oil and Gas
- Laura John, Public Assistance Board
- Rhonda Howlett, Human Rights Commission
- Stacey Kiehn, Tourism Advisory Council

Board of Veterans' Affairs

I have attended the Board of Veterans' Affairs meeting on June 5, 2013 in Helena. Dr. Bonde provided insight to a formal agreement between the Montana Department of Veterans Affairs and the federal Indian Health Service. A key component is the reimbursement process for direct health care services. The Billings Indian Health Care has been selected to oversee this agreement in Montana, which will be initiated with a pilot program with the Blackfeet Tribal Nation.

2013 Governor's Tribal Relations Report

Each year the Governor's Office works with state agencies to produce the statutorily required State-Tribal Relations Report. Led by the Governor's Office of Indian Affairs, this project involves a five-month long process and close collaboration with state agencies. Efforts are underway for producing the 2013 Report covering state-tribal activities that occurred during state fiscal year 2013. This first Tribal Relations Report of the Bullock Administration will highlight the State of Montana's major cooperative work with the tribal governments as well as state activities that impact Indian people in Montana. For example, the report will highlight any rule or policy changes impacting tribes, the efforts of the state agency to promote communication and ensure tribal consultation, as well as major contracts, grants or ongoing collaborative projects with the tribal governments. The 2013 Report will be posted online by September 15.

Tribal Demographic & Economic Information Flyer

The Governor's Office of Indian Affairs is currently working in collaboration with the Department of Labor and Industry (DLI), the Department of Commerce (DOC) and the tribal governments to update the Tribal Demographic and Economic Information Flyers' content. The flyers provide a detailed picture of the economic and demographic status for each Indian reservation in Montana as well as the Little Shell Tribe. They were produced for the first time in 2006 and were last updated in 2008. The current review process is critical to include the most recent statistics available, such as the 2010 U.S. Census data and other usable information for parties interested in doing business with tribal governments and on the reservation. In addition, considerable effort has been made since the end of March to consult with each tribe and ensure the accuracy of their reservation flyer's narrative page. The narrative review process is nearly completed and the next step will be for the DLI staff to finalize the flyers' layout and design. The 2008 flyers are available online at: <http://www.ourfactsyourfuture.org/?PAGEID=67&SUBID=121> and the 2013 flyers will be posted later this summer.

Montana Indian Language Preservation Pilot Program

The Montana Indian Language Preservation Pilot Program demonstrates the State of Montana's commitment to preserve American Indian cultural integrity of its citizens by recognizing that languages (spoken, written, or in sign language form) are vital to the identity of tribal nations. Montana tribal languages are in a time of crisis through the loss of native speakers, writers, and signers. The tribes and the state have resources such as tribal colleges, councils, historic preservation offices, the Montana Historical Society, and the Montana State Library to preserve and protect Montana's tribal languages for this and future generations.

The state has made many tribal consultation conference calls to establish and complete the administrative rules and program guidelines for this program. Tribal leadership, tribal colleges, tribal culture programs, tribal language programs, STEDC members and American Indian legislators have participated on the calls throughout the process.

This is the second time the STED Commission is in a position to oversee a program in its existence. This is a success for the Commission and programs established to assist with job development and language preservation in Indian Country.

Star School Airport Project

The Montana Department of Transportation has committed funding to repave the Star School Airport in partnership with the Blackfeet Tribe. The airport is critical to the medical services provided to the tribe and local city.

Model Tribal Secured Transaction Act

The Bullock Administration is committed to addressing economic development and lending challenges in Indian Country. Adopting the Model Tribal Secured Transaction Act (MTSTA) is one solution for tribal governments to address the lack of lending for economic development on reservations. The Crow and Chippewa Cree Tribe have adopted the MTSTA in Montana. I have recently traveled to the Northern Cheyenne Reservation to visit some of the Council members with the Native American Development Corporation and the Federal Reserve Bank of Minneapolis to discuss the MTSTA. We will continue to advocate for this legal infrastructure to be adopted and implemented to encourage more economic development on reservations.

This Implementation Guide and Commentary to the Model Tribal Secured Transactions Act (hereinafter "Act" or "MTA") drafted by the National Conference of Commissioners on Uniform State Laws ("NCCUSL") and the Federal Reserve Bank of Minneapolis was developed for three purposes: (1) to assist tribal legislatures in their review, adaptation

and enactment of the Act; (2) to facilitate the use and understanding of the Act by tribal judges, legal counsel and individuals promoting business development in Indian Country; and (3) to assist non-tribal lenders and businesses in understanding the similarities and differences between the Act and corresponding provisions of the Uniform Commercial Code (“UCC”).

Many American Indian tribes, tribal entities, tribal member-owned businesses and Indian consumers have encountered significant barriers when seeking loans or other financing from off-reservation sources. While the causes are varied and tend to be many-faceted, one reason frequently cited is the lack or insufficiency of tribal commercial law to guide the parties in a business transaction that would fall within a tribe’s jurisdiction. Access to affordable credit is a fundamental component of sustainable economic development in all modern private market economies. When the rules governing lender/borrower relationships are uncertain or nonexistent, the risks to the lender increase. When the risk of a transaction increases, the lender may either refuse to lend or may increase the interest rate and other costs of the transaction to offset the risks. Therefore, to effectively enable access to credit by businesses and individuals at affordable rates and on competitive terms, rules are needed to govern lender/borrower or other creditor/debtor relationships.

Secured transaction laws provide these rules. Secured transactions are agreements entered into between the parties that involve the giving of property, other than real estate, as collateral for loans or other financing arrangements. The kinds of transactions that come within the scope of secured transactions law are as varied as bank loans for business startups, consumer or business revolving lines of credit, auto loan financing, and installment loan purchases of home appliances, to name but a few.

Modern market economies around the world have secured transaction systems that enable this kind of business to take place within defined and predictable legal frameworks. Developing countries and nations in transition from centrally-controlled to free market economies have almost uniformly made the adoption of secured transaction laws a priority in order to jumpstart their economies. More importantly, these nations are modeling their secured transaction laws and systems on those of their primary international trading partners in order to eliminate to the extent possible any barriers to doing business across borders.

Secured transaction laws in the United States generally fall within the jurisdiction of the states and not the federal government, and are encompassed in the UCC Article 9, entitled *Secured Transactions*. The UCC was drafted in the 1940s by the NCCUSL and the American Law Institute for the purpose of establishing a reasonably consistent legal environment for commercial transactions between parties located in different states. Every state as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands, have adopted the UCC, although most have modified the various articles in some respects to accommodate issues and needs specific to their respective business, legal and cultural

environments. While there are variations among the states' versions of the UCC, they are uniform with respect to their core principles. The benefit of uniformity, or harmonization, is that business can be transacted across state or other borders with relative ease, thus encouraging and enabling economic growth and development.

Like other sovereign nations around the world, tribes and their members are increasingly interacting commercially with lenders and other businesses located outside of Indian Country. And like the in transition and developing nations noted above, many tribes are seeking ways to build sound legal and business infrastructure to accommodate their growing cross-border commercial activity. Over the last several years, the NCCUSL has recognized there may be a need to harmonize secured transaction laws among tribes and between tribes and states for the reasons discussed above to aid tribal economic development. Toward this end, the Executive Committee of the NCCUSL charged the Committee on Liaison with Native American Tribes (the "Committee") to first determine the extent to which tribes have adopted uniform and model secured transaction laws and second, to determine the obstacles faced by tribes in doing so. Based on input from tribes and other interested parties, the Committee determined that while a number of tribes had adopted various versions of Article 9, few had amended their versions to incorporate the revisions made to UCC Article 9 in 1999. The majority of tribes, to the extent the Committee was able to determine, had not adopted any type of secured transactions law or commercial code.

**Source: "Implementation Guide and Commentary to the Model Tribal Secured Transaction Act" by the National Conference of Commissioners on Uniform State Laws, 2005.*